

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE**

SUN OPTICS, INC., a Utah Corporation,)

Plaintiff,)

v.)

FGX INTERNATIONAL, INC., a Delaware)
Corporation,)

Defendant.)

Civil Action No. 1:07cv137 SLR

**PLAINTIFF'S UNOPPOSED MOTION TO WITHDRAW ITS
MOTION FOR PRELIMINARY INJUNCTION ON DEFENDANT'S
NEW ACCUSED PRODUCTS**

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DATE: November 2, 2007

Sun Optics, Inc. (“Sun Optics”) hereby moves the Court to dismiss Plaintiff’s Motion for a Preliminary Injunction on Defendant’s New Accused Products (“Motion for Preliminary Injunction”) without prejudice.

On October 26, 2007, Sun Optics filed the Motion for Preliminary Injunction requesting the Court to enter an Order preliminarily enjoining Defendant FGX International, Inc. (“FGX”) from making, using, selling, offering to sell or importing products referred to by the parties as the “CVS displays,” or any colorable imitation thereof, accused of infringing at least claim 1 of U.S. Patent No. 7,188,739 (the “739 patent”). (D.I. 80). Since filing the Motion for Preliminary Injunction, Sun Optics and FGX have opened a dialog and are currently engaged in substantive settlement negotiations. In light of these settlement negotiations, the parties are filing a joint motion for a 60-day stay of this case concurrently with the present motion. To facilitate the negotiation process by alleviating the need for FGX to respond to the pending Motion for Preliminary Injunction. Sun Optics hereby moves to withdraw its pending Motion for Preliminary Injunction without prejudice. Sun Optics specifically reserves the right to re-file its Motion for Preliminary Injunction should the parties be unsuccessful in settling this case during the requested 60-day stay.

Pursuant to Local Rule 7.1.1, Plaintiff has discussed the present Motion to Withdraw with counsel for FGX. Plaintiff understands that FGX consents to this motion.

A proposed Order is submitted herewith.

Respectfully submitted

CONNOLLY BOVE LODGE & HUTZ, LLP

By: /s/ R. Eric Hutz (#2702)
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Civil Action No.07-137 (SLR)

CERTIFICATE OF SERVICE

I, R. Eric Hutz, hereby certify that on November 2, 2007, I caused to be electronically filed a true and correct copy of the foregoing with the Clerk of the Court using CM/ECF, which will send notification that such filing is available for viewing and downloading to the following counsel of record:

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Attorney for Defendant
FGX International Inc.

I further certify that on November 2, 2007, I caused a copy of the foregoing to be served by hand delivery on the above-listed counsel of record and the following counsel in the manner indicated:

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/s/ R. Eric Hutz (I.D. 2702)

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**[PROPOSED] ORDER GRANTING PLAINTIFF'S UNOPPOSED
MOTION TO WITHDRAW ITS MOTION FOR PRELIMINARY INJUNCTION
ON DEFENDANT'S NEW ACCUSED PRODUCTS**

The Court, having considered the Plaintiff's Unopposed Motion to Withdraw Its Motion for Preliminary Injunction on Defendant's New Accused Products, and for good cause appearing therefore, the Motion is GRANTED. Plaintiff's Motion for Preliminary Injunction (D.I. 80) is hereby dismissed without prejudice.

So Ordered this _____ day of _____, 2007.

The Honorable Judge Sue L. Robinson